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EXAMINER
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TRUONG, LAN DAI T

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ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte SUBODH A. SAMUEL and RAJI ABRAHAM

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Appeal 2009-011317  
Application 10/092,181  
Technology Center 2400

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Before MAHSHID D. SAADAT, ALLEN R. MacDONALD, and  
KRISTEN L. DROESCH, Administrative Patent Judges.

MacDONALD, Administrative Patent Judge.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of  
claims 1-17. We have jurisdiction under 35 U.S.C. § 6(b).

## STATEMENT OF CASE

### Exemplary Claim

Exemplary independent claims 1 and 11 under appeal read as follows:

1. A method for distributing software comprising:

distributing a message from an application server to one or more application layer routers through one or more first channels selected from a first channel layer, wherein the message is distributed to the one or more application layer routers in response to at least the one or more application layer routers registering with the application server to receiver messages in accordance with configuration data of one or more endpoints; and

distributing the message from the one or more application routers to the one or more endpoints through one or more second channels selected from a second channel layer, wherein the message is distributed to the one or more endpoints in response to at least the one or more endpoints registering with the one or more application layer routers to receive messages in accordance with the configuration data of the one or more endpoints.

11. A system for distributing software comprising:

an application server transmitting a message that includes a first channel selected from a first channel layer and a second channel selected from a second channel layer;

a first application layer router coupled to the first channel layer receiving the message and transmitting the message over the first channel, wherein the message is distributed to the first application layer router in response to at least the first application layer router registering with the application server to receive messages in accordance with configuration data of at least a first endpoint;

a second application layer router coupled to the second channel layer receiving the message and transmitting the message over the second channel, wherein the message is distributed to the second application layer router in response to at least the second application layer router registering with the application server to receive messages in accordance with configuration data of at least a second endpoint; and

the second endpoint receiving the message from the second channel layer.

### Rejections on Appeal

1. The Examiner rejected claims 1-3, 6, 8, and 11 under 35 U.S.C. § 102(e) as being anticipated by Kovarik (US 7,020,717 B1).
2. The Examiner rejected claims 4, 5, 7, 9, 10, and 12-17 as being unpatentable under 35 U.S.C. § 103(a) over the combination of Kovarik and various other prior art references.

### Appellants' Contentions

1. Appellants contend that the Examiner erred in rejecting the claims because "Kovarik fails to teach or suggest that the message topic server 125 transmits a message to a message router 115 ("first channel") that in turn transmits the message to an application 105 ("second channel")." as is required by the claims. (App. Br. 5 and 6).
2. Appellants go on to argue Kovarik "fails to teach or suggest a method of distributing software" (App. Br. 5) and "fails to teach or suggest a system for distributing software" (App. Br. 6). (emphases added).

### Issues on Appeal

Whether the Examiner has erred in rejecting 1-17 because Kovarik fails to disclose the argued claim limitations?

### ANALYSIS

Although we disagree with Appellants' above contention (2) because Appellants are inappropriately giving weight to the content of the messages, we agree with the Appellants' above contention (1).

We have reviewed the sections of Kovarik cited by the Examiner. Although we do agree with the Examiner that Kovarik is relevant art (e.g., col. 7:10-64) in that it achieves a similar overall message distribution result as claimed, we do not agree that Kovarik achieves that result by the method or system as required by the claims.

### CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 1-3, 6, 8, and 11 as being anticipated under 35 U.S.C. § 102(e).

(2) Appellants have established that the Examiner erred in rejecting claims 4, 5, 7, 9, 10, and 12-17 as being unpatentable under 35 U.S.C. § 103(a).

(3) On this record, claims 1-17 have not been shown to be unpatentable.

### DECISION

The Examiner's rejections of claims 1-17 are reversed.

REVERSED

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